

2024 Regular Legislative Session Code Changes Affecting PEIA

SB 453 - Requiring pricing and payment transparency from pharmacy benefits managers contracting with PEIA.

Completed legislative action on March 9, 2024, effective 90 days from passage on June 7, 2024. Sent to the Governor on March 14, 2024.

- Amends **W. Va. Code §5-16-9(f)(4)** to add the following new requirements to existing pharmacy reporting: Date of service; NDC-11; Drug name; Drug strength; Quantity; Days of therapy; Rx count; Mail/retail code; Brand/generic indicator; Specialty drug indicator; Compound indicator; Formulary indicator; Gross cost; Member cost; Plan cost; Dispense as written; Pharmacy NPI number; Pharmacy Claim ID; Prescriber NPI number; Pharmacy name; and Ingredient cost.
- Removes from **W. Va. Code §5-16-9(f)(4)** the following: 1) language previously acknowledging the confidentiality of the proprietary information contained in the report or data collected as well as the nondisclosure of the data collected to persons outside the agency; 2) language acknowledging the existence of the exemption for trade secret information contained in the West Virginia Freedom of Information Act; 3) and language stating that only agency employees involved in collecting, securing, and analyzing the data for the purpose of preparing the report shall have access to the proprietary data.
- Amends **W. Va. Code §5-16-9(f)(4)** which requires reporting to the Joint Committee on Health from quarterly to annually.
- Amends W. Va. Code §5-16-9 to add new **W. Va. Code §5-16-9(i)**, which directs PEIA to require each of the following in its requests for proposals and contracts with a pharmacy benefit manager: 1) "The pharmacy benefit manager shall disclose all information and data related to contracting, reimbursement, networks, rebates, fees, and any other information and data requested by the Public Employees Insurance Agency, the Legislature, and vendors for the purpose of performing study and analysis. Effective with the changes made to this section during the regular session of the Legislature, 2024, a comprehensive pharmacy business intelligence study and analysis shall be conducted by an organization with expertise in studying and analyzing pharmacy benefit managers to determine what, if any, changes could be made to facilitate savings with respect to the Public Employees Insurance Agency's pharmacy benefit manager services. A final report, including recommendations, shall be presented no later than December 31, 2024, to the Public Employees Insurance Agency and the Joint Committee on Government and Finance."; and 2) "A pharmacy benefit manager shall not reimburse a West Virginia pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than the national average drug acquisition cost for a prescription drug or pharmacy service at the time the drug is administered or dispensed, plus a professional dispensing fee at least equal to the professional dispensing fee paid by West Virginia Medicaid for outpatient drugs. Increases to the professional dispensing fee may be set by the Director in accordance with this subdivision: Provided, That if the national average drug acquisition cost is not available at the time a drug is administered or dispensed, a pharmacy

benefit manager may not reimburse a West Virginia pharmacy or pharmacist in an amount that is less than the wholesale acquisition cost of the drug, as defined in 42 U.S.C. § 1395w-3a(c)(6)(B), plus a dispensing fee as described in this subdivision. A West Virginia pharmacy is a domestic business entity as registered with the West Virginia Secretary of State. The provisions in this subdivision shall be effective for the Public Employees Insurance Agency plan year beginning on July 1, 2024.”